

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6697**

**BILL NUMBER:** HB 1066

**NOTE PREPARED:** Dec 30, 2012

**BILL AMENDED:**

**SUBJECT:** Local Government Reorganization.

**FIRST AUTHOR:** Rep. Cherry

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

*Reorganization Committee:* It eliminates, effective January 1, 2014, the requirement that a reorganization committee must be appointed to prepare the reorganization plan as part of a proposed local government reorganization.

*Reorganization Plan:* The bill provides that the legislative bodies of the reorganizing political subdivisions (rather than a reorganization committee) shall prepare the reorganization plan that must be adopted by the legislative bodies before the proposed reorganization is placed on the ballot.

*Fiscal Impact Analysis:* It requires that a reorganization plan must include a fiscal impact analysis, and it specifies the required contents of the fiscal impact analysis.

The bill provides that the fiscal impact analysis must specify any estimated effects on political subdivisions in the county that are not participating in the reorganization and on taxpayers located in those political subdivisions.

The bill also requires that the fiscal impact analysis must be submitted to the Department of Local Government Finance (DLGF) at least six months before the election in which the public question will be on the ballot.

*Department of Local Government Finance:* The bill requires the DLGF to do the following within a reasonable

time, but not later than 30 days before the election on the public question:

- (1) Review the fiscal impact analysis.
- (2) Make any comments concerning the fiscal impact analysis that the DLGF considers appropriate.
- (3) Provide comments to the legislative body of the reorganizing political subdivisions and post the comments on the DLGF's Internet web site.

It requires the reorganizing political subdivisions to pay the expenses incurred by the DLGF in carrying out the review and preparing the comments.

*Description for Ballot:* It requires that a brief description of the reorganized political subdivision that will succeed the reorganizing political subdivisions must be placed on the ballot containing the public question. It provides that for a public question voted on by voters after June 30, 2013, the county election board shall submit the language to the DLGF for review. It requires the DLGF to review the language of the public question to:

- (1) evaluate whether the description of the reorganized political subdivision is accurate and not biased; and
- (2) approve or make binding recommendations to the county election board regarding the ballot language.

It requires the county election board to take final action to approve the ballot language, and it provides that certification of a public question on a proposed local government reorganization must occur as required for other public questions under the election law.

*Municipality-Township Tally:* The bill provides that in the case of a proposed reorganization between a municipality and a township that is voted on by voters after December 31, 2013:

- (1) the voters residing within the municipality shall be included only in the tally of votes for the municipality and shall not be included in the tally of votes for the township; and
- (2) the voters who reside within the township but do not reside within the municipality shall be included only in the tally of votes for the township and shall not be included in the tally of votes for the municipality.

*Approval Threshold:* For reorganizations voted on after December 31, 2013, it requires (rather than allows) the use of an "approval threshold" in the case of a proposed local government reorganization involving:

- (1) a county and a municipality; or
- (2) a municipality and a township.

(Under current law, "rejection thresholds" are optional and may be used only in a reorganization between a county and a municipality).

*County-Municipality Approval Threshold:* It provides that for a reorganization that is voted on after December 31, 2013, between a county and a municipality to be approved, the number of voters voting to approve the reorganization must equal or exceed the approval thresholds set in the reorganization plan:

- (1) for the municipality; and
- (2) for the area of the county outside the municipality.

The bill provides that the approval threshold for the municipality and area of the county outside the municipality must be greater than 50% but not more than 55%. (Under current law the approval percentage

for the countywide vote must be greater than 50%).

*Municipality-Township Approval Threshold:* The bill also specifies that in order for a reorganization that is voted on after December 31, 2013, between a municipality and a township to be approved, the number of voters voting to approve the reorganization must equal or exceed the approval thresholds set in the reorganization plan:

- (1) for the municipality; and
- (2) for the area of the township outside the municipality.

It provides that the approval threshold for the municipality and the area of the township outside the municipality must be greater than 50% but not more than 55%.

*Nonreorganizing Political Subdivisions:* It provides that if a political subdivision is located in whole or in part within one or more other political subdivisions that reorganize and the first political subdivision does not participate in or does not approve the reorganization:

- (1) the reorganization does not affect the rights, powers, and duties of the first political subdivision; and
- (2) the reorganized political subdivision may not exercise within the first political subdivision any right, power, or duty unless that right, power, or duty was exercised within the first political subdivision before the reorganization by at least one of the reorganizing political subdivisions.

*Changes to Current Levels of Services:* The bill provides that a plan of reorganization may establish within a reorganized political subdivision territories or districts:

- (1) in which specified services provided by the reorganized political subdivision will be provided at different levels, quantities, or amounts; and
- (2) in which the fees, charges, or taxes imposed by the reorganized political subdivision will vary depending on the level, quantity, or amount of the services.

*Duties:* It requires a reorganized political subdivision to continue to carry out the duties imposed by Indiana law on the reorganizing political subdivisions that combined to form the reorganized political subdivision.

*Parks and Recreation, and Zoning and Planning:* The bill specifies that a reorganized political subdivision created from two or more townships and at least one municipality that have reorganized:

- (1) may exercise park and recreation powers and establish a park and recreation board if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers; and
- (2) may exercise planning and zoning power if the reorganized political subdivision's plan of reorganization authorizes the reorganized political subdivision to exercise those powers.

It provides that such a reorganized political subdivision shall, by resolution or in the plan of reorganization, determine the number of members to be appointed to the reorganized political subdivision's park and recreation board, advisory plan commission, and board of zoning appeals.

*Ability to Act:* It provides that a political subdivision may not take certain actions within a reorganizing political subdivision after the date on which a plan of reorganization is finally adopted by all reorganizing political subdivisions unless one of the following occurs:

- (1) All reorganizing political subdivisions agree to allow the action by adopting identical resolutions.
- (2) The plan is rejected by voters in a referendum.
- (3) The plan is approved by voters and one of the following occurs:
  - (A) The plan is implemented.
  - (B) One year elapses from the date on which the plan was approved.

*Town to City:* It requires a town legislative body to adopt a resolution not later than 30 days after a petition is filed for a referendum on changing the town into a city. The bill also provides that the date of the referendum must not be later than the date of the next general election or the date of the next municipal election, whichever is earlier, at which the question can be placed on the ballot. It provides that if the referendum passes, the first election of city officers must be held on the date of the next general election or municipal election, whichever is earlier, following the date of the referendum.

*Classification:* The bill provides that notwithstanding the statute setting out the classification of municipalities, for purposes of local government administration a municipality reorganized under the local government reorganization statutes may, subject to the approval of the Department of Local Government Finance:

- (1) be classified and described as set forth in the reorganization plan; and
- (2) maintain characteristics of any of the reorganizing political subdivisions.

*Promotion Prohibited:* The bill provides that during the period beginning with the date the final plan of reorganization is approved or considered to be approved and continuing through the day on which the public question on the reorganization is submitted to the voters, the political subdivision may not promote a position on the public question by taking certain actions.

It also provides that a person or an organization that has a contract or arrangement (whether formal or informal) with a political subdivision to provide goods or services to the political subdivision: (1) may not spend any money to promote a position on the public question regarding reorganization; and (2) commits a Class A infraction for a violation of (1).

**Effective Date:** July 1, 2013; January 1, 2014.

**Explanation of State Expenditures:** *DLGF:* The DLGF is to certify its expenses for review of, comment on, and posting on its website of a fiscal impact analysis concerning a political subdivision reorganization. The reorganizing political subdivisions will reimburse the expenses. [There are no data available to estimate how much expense the DLGF may incur with these added responsibilities.]

Additionally, the DLGF is to review ballot language and submit comments, if any, to be approved by the county election board. This function is unreimbursed and may increase costs for the DLGF. The increase will depend on the number of ballot questions the DLGF must approve and the complexity of the language.

**Explanation of State Revenues:** *Promotion Prohibited:* If additional court cases occur and infraction judgments and court fees are collected from violations concerning promotion of position on reorganization, revenue to the state General Fund may increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would

be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Summary:* The bill could increase costs for reorganizations by political subdivisions by requiring the legislative body to prepare fiscal impact analyses and reimburse for DLGF expenses concerning review of the fiscal impact analyses. Plan amendments are to be posted to the entity's website, which may require minimal cost. To the extent that a reorganization could work more efficiently, avoid duplication of services, or reduce costs, the additional information or steps required may delay or reduce the number of combinations. The additional costs will depend on the circumstances of the reorganization and the number of political subdivisions involved.

The repeal of the reorganization committee could minimally reduce costs by eliminating the expense reimbursement to which the members of the committee would be entitled. All duties for developing a reorganization plan would remain and would be undertaken by the legislative bodies of the reorganizing political subdivisions.

**Background and Additional Information:** Under current law, the reorganizing political subdivision with the largest population pays the expenses of the reorganization committee and then seeks reimbursement from the other reorganizing subdivisions in accordance with adopted agreements or in proportion to population size.

Since the enactment of the Government Modernization Act in 2006, there have been three reorganizations. A reorganization of a city, Zionsville, and two townships, Eagle and Union, is complete and operating. The town of Yorktown and Mount Pleasant Township in Delaware County, and the schools of Turkey Run and the schools of Rockville in Parke County have passed referenda to reorganize, effective at the end of the budget year 2013.

**Fiscal Impact Analysis:** The legislative body must include in a plan whether a fiscal impact analysis has been prepared and if it has been made publically available. Under the bill, the fiscal impact analysis must include at a minimum the estimated effect on the taxpayers of each political subdivision, a description and the method(s) of financing planned services, a description and the method(s) of financing capital improvements, and any estimated effects on nonparticipating political subdivisions in the county and its taxpayers.

**DLGF Reimbursement:** (See *Explanation of State Expenditures*.)

**Reorganization of Townships:** The costs of the provisions concerning transfer of certain cemeteries or parks and recreation board powers and duties are indeterminate and will depend on any efficiencies that may be gained in such a transfer.

**Explanation of Local Revenues:** *Promotion Prohibited:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a

felony or misdemeanor are also required to pay the following fees that are deposited in local funds: the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

**State Agencies Affected:** DLGF.

**Local Agencies Affected:** Reorganizing political subdivisions, trial courts, and local law enforcement agencies.

**Information Sources:** DLGF.

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